

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

DAVID MICHAEL LEON,

No. C 07-05719 CRB

Petitioner,

CERTIFICATE OF APPEALABILITY

v.

JAMES A YATES,

Respondent.

The Court denied the petition for habeas corpus and must now decide whether to issue a certificate of appealability ("COA"). A court shall grant a COA "if the applicant has made a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). "Where a district court has rejected the constitutional claims on the merits, the showing required to satisfy § 2253(c) is straightforward: the petitioner must demonstrate that reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong." Slack v. McDaniel, 529 U.S. 473, 484 (2000).

Upon review the Court issues a COA with respect to the following issues as requested by petitioner:

1. Whether petitioner's constitutional rights were violated by the exclusion of third party culpability evidence.
2. Whether petitioner's constitutional rights were violated by the dismissal of a juror during deliberations.

- 1 3. Whether petitioner was deprived of effective assistance of appellate counsel by
2 counsel's failure to raise on direct appeal the issue of a defense expert on
3 coerced statement,

4 **IT IS SO ORDERED.**

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6 Dated: April 30, 2009



CHARLES R. BREYER
UNITED STATES DISTRICT JUDGE